**IN THE UNITED STATES DISTRICT COURT**
**FOR THE MIDDLE DISTRICT OF ALABAMA**

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| **JOHNNY C. FENN, JR., #238558** | ) | |
| | ) | |
| **Plaintiff,** | ) | |
| | ) | **Civil Action No.: CV-05-515-F** |
| **v.** | ) | |
| | ) | |
| **MICHAEL HUGHES, et al.,** | ) | |
| | ) | |
| **Defendants.** | ) | |

## AFFIDAVIT OF MICHAEL R. HUGHES

Before me, the undersigned authority, on this day personally appeared Michael R. Hughes who being by me first duly sworn, deposed and stated upon his oath the following:

My name is Michael Hughes. I am over the age of twenty-one (21) years and I am a Defendant in the above-referenced case. I have personal knowledge of the following:

At all material times hereto, I was employed by the Troy Police Department as a Police Officer. I have been a law enforcement officer for approximately fifteen years.

On October 3, 2004 at approximately 10:53 a.m., I, along with Officer James Mueller, was dispatched to Pinckard's Convenience Store on Highway 231 south of Troy for a trespassing call involving the plaintiff, Johnnie Fenn. While we were in route, dispatch informed us that Fenn had an active felony warrant and that he was leaving Pinckard's in a silver van headed towards the Pocossin area.

I met with a silver van, and it had two people in the van. I turned around to see if Fenn was possibly in this van. As I turned around, I met the van coming back out and it just had the driver in it at this time. I followed the driver to a trailer and talked with him. The driver was not

Fenn. The driver told me that he dropped Fenn off on Smith Street. At that time, my backup, Officer James Mueller, and shift supervisor, Sergeant Railey were there with me. Officer Mueller and I headed to Smith Street to see if we could make contact with Fenn.

At this time, Sergeant Railey advised that he saw a red and silver Ford SUV-type vehicle, and he recognized Fenn to be in the backseat. We started towards this location when I saw the Ford Explorer SUV-type vehicle. Before the vehicle stopped, Fenn exited the back and took off running towards the woods. We were unable to get close enough to him at that time to catch him, so we set up a perimeter and tried to locate him and make sure we had him contained. Sergeant Railey requested tracking dogs to aid in the search.

Sergeant Railey received information that Fenn was hiding out in a trailer nearby. We went to this trailer, and Fenn ran back into the woods. He was pursued by Pike County Sheriff's Deputies. It was communicated to me that during that foot pursuit, Fenn ran up to a van that was running and unlocked. He got into the van and left. Officer Mueller was in the area in his police car and started a vehicle pursuit. They headed towards Highway 231. It was communicated to me over the radio that Fenn and the pursuing officers were headed in my direction so I, along with other officers on the scene tried to set up a rolling roadblock.

At this point, the van that Fenn was driving tried to get around a sheriff's deputy on the shoulder of the road. He hit two mailboxes in an attempt to get around the deputy. He was unable to get around the deputy so he got back behind myself, came up to my vehicle and hit me in the back, ramming me intentionally trying to knock me off the road so he could get by. Fenn then went off to my left, off the shoulder of the road and came back up onto the road scraping my vehicle. He came into contact with me several times as he was trying to pass me and get away. He swerved over trying to push me off the road with the van. This was a dangerous situation so I slowed down, and Fenn got in front of me. Officer Mueller arrived and moved up beside me while we were going down the road. When I backed off, Fenn struck Officer Mueller's police car. At this point, I discovered my police car was disabled and I could not go any further.

Fenn had plenty of opportunity to stop. We were trying to slow him down and get him to stop and he had ample opportunity to do so. It was obvious that we were trying to get him stopped, and he intentionally rammed several police cars in an attempt to evade officers. The point in time I realized my car was disabled, I stopped and that was the last contact I had with Fenn. Officer Mueller continued to pursue Fenn down Highway 231 in the direction of Brundidge, Alabama.

I was not present on the scene when Fenn was ultimately captured and arrested. I did not, at any time, have any physical contact with Fenn. At no point did I strike Fenn. At no time did I use any OC pepper spray on Fenn. At no time did I exert any unreasonable force on Fenn. Fenn was attempting to flee from officers and posed a threat to himself and officers. Fenn evaded police for over an hour before he was finally arrested. At least nine law enforcement officers were involved in the search and pursuit of Fenn.

Attached are records accurately reflecting the continuing education course I have completed and certificates I earned while at the Montgomery Police Academy, Alabama Peace Officer's Standards & Training (APOST) certification.

MICHAEL R. HUGHES

STATE OF ALABAMA
COUNTY OF MONTGOMERY

Before me, the undersigned Notary Public, did personally appear Michael Hughes who states to me that he is aware of the contents of the foregoing Affidavit, and that he did execute it voluntarily.

SWORN TO and SUBSCRIBED before me on this the 18th day of August, 2005.

NOTARY PUBLIC

My Commission Expires
04-30 2006